

required by paragraph (f)(1) of this section to meet the NO<sub>x</sub> and NMHC standards listed in paragraph (a) of this section by two engines.

(g) For model years prior to 2012, for purposes of determining compliance after title or custody has transferred to the ultimate purchaser, for engines having a NO<sub>x</sub> FEL no higher than 0.50 g/bhp-hr, the applicable compliance limits for NO<sub>x</sub> and NMHC shall be determined by adding 0.10 g/bhp-hr to the otherwise applicable standards or FELs for NO<sub>x</sub> and NMHC.

[66 FR 5165, Jan. 18, 2001]

#### § 86.078-3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to subparts B, D, H, I, J, N, O and P of this part and have the following meanings:

accel.—acceleration.  
 AECD—Auxiliary emission control device.  
 API—American Petroleum Institute.  
 ASTM—American Society for Testing and Materials.  
 BHP—Brake horsepower.  
 BSCO—Brake specific carbon monoxide.  
 BSHC—Brake specific hydrocarbons.  
 BSNO<sub>x</sub>—Brake specific oxides of nitrogen.  
 C—Celsius.  
 cfm—cubic feet per hour.  
 CFV—Critical flow venturi.  
 CFV-CVS—Critical flow venturi—constant volume sampler.  
 CL—Chemiluminescence.  
 CO<sub>2</sub>—carbon dioxide.  
 CO—Carbon monoxide.  
 conc.—concentration.  
 cfm—cubic feet per minute.  
 CT—Closed throttle.  
 cu. in.—cubic inch(es).  
 CVS—Constant volume sampler.  
 decel.—deceleration.  
 EP—End point.  
 evap.—evaporative.  
 F—Fahrenheit.  
 FID—Flame ionization detector.  
 FL—Full load.  
 ft.—feet.  
 g—gram(s).  
 gal.—U.S. gallon(s).  
 GVW—Gross vehicle weight.  
 GVWR—Gross vehicle weight rating.  
 h—hour(s).  
 H<sub>2</sub>O—water.  
 HC—hydrocarbon(s).  
 HFID—Heated flame ionization detector.  
 Hg—mercury.  
 hi—high.  
 hp.—horsepower.  
 IBP—Initial boiling point.  
 ID—Internal diameter.

in.—inch(es).  
 K—kelvin.  
 kg—kilogram(s).  
 km—kilometer(s).  
 kPa—kilopascal(s).  
 lb.—pound(s).  
 lb.-ft.—pound-feet.  
 m—meter(s).  
 max.—maximum.  
 mg—milligram(s).  
 mi.—mile(s).  
 min.—minute(s).  
 ml—milliliter(s).  
 mm—millimeter(s).  
 mph—miles per hour.  
 mv—millivolt(s).  
 N<sub>2</sub>—nitrogen.  
 NDIR—Nondispersive infrared.  
 NO—nitric oxide.  
 NO<sub>2</sub>—nitrogen dioxide.  
 NO<sub>x</sub>—oxides of nitrogen.  
 No.—Number.  
 O<sub>2</sub>—oxygen.  
 Pb—lead.  
 pct.—percent.  
 PDP-CVS—Positive displacement pump—constant volume sampler.  
 ppm—parts per million by volume.  
 ppm C—parts per million, carbon.  
 psi—pounds per square inch.  
 psig—pounds per square inch gauge.  
 PTA—Part throttle acceleration.  
 PTD—Part throttle deceleration.  
 R—Rankin.  
 rpm—revolutions per minute.  
 RVP—Reid vapor pressure.  
 s—second(s).  
 SAE—Society of Automotive Engineers.  
 SI—International system of units.  
 sp.—speed.  
 TEL—Tetraethyl lead.  
 TML—Tetramethyl lead.  
 UDDS—Urban dynamometer driving schedule.  
 V—volt(s).  
 vs—versus.  
 W—watt(s).  
 WF—Weighting factor.  
 WOT—Wide open throttle.  
 wt.—weight.  
 '—feet.  
 "—inch(es).  
 °—degree(s).  
 Σ—summation.

[42 FR 32907, June 28, 1977, as amended at 45 FR 4149, Jan. 21, 1980]

#### § 86.078-6 Hearings on certification.

(a)(1) After granting a request for a hearing under § 86.084-22, § 86.084-30(b), or § 86.084-30(c), the Administrator shall designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection

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Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 86.084-22, § 86.084-30(b), or § 86.084-30(c), the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 86.078-30(c)(5)(i), the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 86.084-22, § 86.084-30(b), or § 86.084-30(c) together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

- (i) Simplification of the issues;
- (ii) Stipulations, admissions of fact, and the introduction of documents;
- (iii) Limitation of the number of expert witnesses;
- (iv) Possibility of agreement disposing of all or any of the issues in dispute;
- (v) Such other matters as may aid in the disposition of the hearing, includ-

ing such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearings shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f)(1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within

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20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

[42 FR 32907, June 28, 1977, as amended at 49 FR 48479, Dec. 12, 1984]

### § 86.079-31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles (or engines) for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles (or test engines) and the computation of test results will be determined separately for each application.

[42 FR 45149, Sept. 8, 1977]

### § 86.079-32 Addition of a vehicle or engine after certification.

(a) If a manufacturer proposes to add to his product line a vehicle (or engine) of the same engine-system combination as vehicles (or engines) previously certified but which was not described in the application for certification when the test vehicle(s) (or test engine(s)) representing other vehicles (or engines) of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 86.079-34. This notification shall include a full description of the vehicle (or engine) to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) (or test engine(s)) representing the vehicle (or engine) to be added which would have been required if the vehicle (or engine) had

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been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 86.079-29, the Administrator determines that the test vehicle(s) or test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) (or test engine(s)) does not meet applicable standards, he will proceed under § 86.079-30(b).

[42 FR 45149, Sept. 8, 1977]

### § 86.079-33 Changes to a vehicle or engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles (or production engines) in respect to any of the parameters listed in § 86.079-24(a)(3), § 86.079-24(b)(1)(iii), § 86.079-24(b)(2) (iii) or § 86.079-24(b)(3)(iii) as applicable, giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 86.079-34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct. The Administrator will determine whether the vehicle (or engine), as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles (or engines) he will notify the manufacturer in writing. Except as provided in § 86.079-34 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles (or engines) would not be covered by the certificate then in effect, the modified vehicles (or engines) shall be treated as additions to the product line subject to § 86.079-32.

[42 FR 45149, Sept. 8, 1977]